

EXHIBIT 8 - 1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

DOCKET NO.: 2184-CV-00741

AUSTIN O'TOOLE and THE LAW)
OFFICES OF AUSTIN SCOTT O'TOOLE, PC,)

Plaintiff,)

v.)

DAVID HOEY, THE LAW OFFICES OF DAVID)
HOEY, P.C., KIRA WAHLSTROM, DON)
KEENAN, and THE KEENAN LAW FIRM, P.C.,)

Defendants.)

po

**ANSWER, AFFIRMATIVE DEFENSES AND JURY DEMAND OF DON KEENAN AND
THE KEENAN LAW FIRM, P.C. IN RESPONSE TO FIRST AMENDED COMPLAINT**

Defendants Don Keenan ("Keenan") and The Keenan Law Firm, P.C. ("KLF") (together, the "Defendants") respond to Plaintiffs' First Amended Complaint as follows:

Introduction

1. The allegations in this paragraph represent a statement of the nature of the plaintiffs' complaint and do not require a response. To the extent a response is required, denied.

2. The allegations in this paragraph represent a statement of the nature of the plaintiffs' complaint and do not require a response. To the extent a response is required, denied.

Parties

3. Defendants lack knowledge or information sufficient to admit or deny the allegations in this paragraph.

4. Defendants lack knowledge or information sufficient to admit or deny the allegations in this paragraph.

EXHIBIT 8 - 2

5. The allegations in this paragraph are directed at another defendant and do not require a response.

6. The allegations in this paragraph are directed at another defendant and do not require a response.

7. Admitted as to the allegations in the first sentence of this paragraph. The allegations in the second sentence do not require a response. Defendants lack knowledge or information sufficient to admit or deny the allegations in the third sentence.

8. Admitted as to the allegations in the first sentence of this paragraph. Defendants admit that Keenan is the founder of the Keenan Trial Institute and has authored several books; otherwise denied as to the remaining allegations in this paragraph.

9. Denied as to the allegations in the first and second sentences of this paragraph. The allegations in the third sentence do not require a response.

Facts

10. Admitted as to the allegations in the first sentence of this paragraph. Defendants lack knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

11. Defendants lack knowledge or information sufficient to admit or deny the allegations in this paragraph.

12. The documents alleged in this paragraph speak for themselves and no response is required; otherwise, denied.

13. The document alleged in this paragraph speaks for itself and no response is required; otherwise, denied.

14. Denied.

EXHIBIT 8 - 3

15. The document alleged in this paragraph speaks for itself and no response is required; otherwise, denied.

16. The document alleged in the first and third sentences of this paragraph speaks for itself and no response is required; otherwise, denied. The allegations in the second sentence call for a legal conclusion to which no response is required. To the extent the allegations in the fourth sentence call for a legal conclusion, no response is required. To the extent the allegations in this paragraph refer to certain testimony, the testimony speaks for itself and no response is required. Denied as to the remaining allegations in this paragraph.

17. Denied.

18. Defendants lack knowledge or information sufficient to admit or deny the allegations in this paragraph.

19. Admitted as to the allegations in the first sentence of this paragraph. The court decisions alleged in the second and third sentences speak for themselves and no response is required; otherwise, denied.

20. The document alleged in the first sentence of this paragraph speaks for itself and no response is required; otherwise, denied. Denied as to the allegations in the second sentence.

21. Denied as to the allegations in the first sentence of this paragraph. The documents alleged in the second and third sentences speak for themselves and no response is required; otherwise, denied. Defendants lack knowledge or information sufficient to admit or deny the allegations in the fourth sentence.

22. Defendants lack knowledge or information sufficient to admit or deny the allegations in this paragraph.

EXHIBIT 8 - 4

23. The document alleged in the first sentence of this paragraph speaks for itself and no response is required; otherwise, denied. Denied as to the remaining allegations in this paragraph.

24. The document alleged in the first and second sentences of this paragraph speaks for itself and no response is required; otherwise, denied. Denied as to the remaining allegations in this paragraph.

Count I **Breach of Contract** **(Mr. Hoey, Hoey Law, and Ms. Wahlstrom)**

This count is not directed to the Defendants and therefore no response is required. To the extent the allegations in the paragraphs under this count allege any fact or wrongful conduct against the Defendants, those allegations are denied.

Count II **Breach of the Covenant of Good Faith and Fair Dealing** **(Mr. Hoey, Hoey Law, and Ms. Wahlstrom)**

This count is not directed to the Defendants and therefore no response is required. To the extent the allegations in the paragraphs under this count allege any fact or wrongful conduct against the Defendants, those allegations are denied.

Count III **Violation of c. 93A, § 11** **(Mr. Hoey and Hoey Law)**

This count is not directed to the Defendants and therefore no response is required. To the extent the allegations in the paragraphs under this count allege any fact or wrongful conduct against the Defendants, those allegations are denied.

EXHIBIT 8 - 5

Count IV **Declaratory Judgment** **(All Defendants)**

- 40. Defendants repeat their responses above as if fully set forth herein.
- 41. The allegations in this paragraph call for a legal conclusion to which no response is required.
- 42. Defendants lack knowledge or information sufficient to admit or deny the allegations in this paragraph.
- 43. Defendants lack knowledge or information sufficient to admit or deny the allegations in this paragraph.
- 44. Denied.
- 45. Denied.

Count V **Tortious Interference with Contractual Relations** **(Keenan and KLF)**

- 46. Defendants repeat their responses above as if fully set forth herein.
- 47. Denied.
- 48. Denied.

Count VI **Civil Conspiracy** **(Hoey, Hoey Law, Keenan and KLF)**

- 49. Defendants repeat their responses above as if fully set forth herein.
- 50. Denied.
- 51. Denied.

EXHIBIT 8 - 6

Count VII
Unjust Enrichment/Constructive or Resulting Trust
(Keenan and KLF)

52. Defendants repeat their responses above as if fully set forth herein.

53. Denied.

54. Denied.

55. Denied.

Count VIII
Violation of c. 93A, § 11
(Keenan and KLF)

56. Defendants repeat their responses above as if fully set forth herein.

57. The allegations in this paragraph call for a legal conclusion to which no response is required.

58. Denied.

59. Denied.

60. Denied.

Count IX
Declaratory Judgment
(Hoey, Hoey Law, Keenan and KLF)

61. [sic]

62. [sic]

63. Defendants repeat their responses above as if fully set forth herein.

64. Denied.

65. Denied.

66. Denied.

WHEREFORE, Defendants deny that plaintiffs are entitled to any judgment or recovery.

EXHIBIT 8 - 7

AFFIRMATIVE DEFENSES

1. Plaintiffs' claims against the Defendants fail to state a claim upon which relief may be granted.
2. Plaintiffs' claims against the Defendants are barred by the applicable statute(s) of limitations.
3. Plaintiffs' claims against the Defendants are barred by the applicable Rules of Professional Conduct.
4. Plaintiffs' claims against the Defendants are barred because the alleged wrongful conduct did not cause plaintiffs any harm.
5. Plaintiffs failed to mitigate their damages.
6. Plaintiffs' claims against the Defendants are barred by laches.
7. Plaintiffs have not met the statutory prerequisites to maintain their action against the Defendants.
8. Plaintiffs' claims against the Defendants are barred by the doctrine of in pari delicto, fraud, unclean hands and/or estoppel.
9. Plaintiffs' claims against the Defendants are barred by accord and satisfaction.
10. Plaintiffs' claims against the Defendants are barred by money had and received.
11. Plaintiffs' claims against the Defendants are barred because plaintiffs endorsed the check paid to them.
12. Plaintiffs were unjustly enriched and cannot now recover.
13. To the extent plaintiffs suffered harm, such harm was caused by the acts and omissions of a person or entity over which Defendants were not responsible.

EXHIBIT 8 - 8

14. Defendants reserve the right to add such other and further defenses as become apparent during discovery.

WHEREFORE, Defendants respectfully requests that this Court enter judgment in their favor on all counts in Plaintiffs' Amended Complaint.

JURY TRIAL DEMAND

Defendants demand a trial by jury on all counts and issues so triable.

Defendants,

DON KEENAN and
THE KEENAN LAW FIRM, P.C.,

By their attorneys,

/s/ Ian J. Pinta

Howard M. Cooper, Esq. (BBO # 543812)

hcooper@toddweld.com

Ian J. Pinta, Esq. (BBO # 667812)

ipinta@toddweld.com

TODD & WELD LLP

One Federal Street, 27th Floor

Boston, MA 02110

Tel.: 617-720-2626

Fax: 617-227-5777

Dated: July 25, 2022

CERTIFICATE OF SERVICE

I, Ian J. Pinta, hereby certify that on this 25th day of July, 2022, I caused a true and accurate copy of the foregoing document to be served on counsel of record for all parties via email.

/s/ Ian J. Pinta

Ian J. Pinta